

UNITED STATES DISTRICT COURT

for the

Western District of Pennsylvania

2nd Division

JoAnne Thompson

Plaintiff(s)

(Write the full name of each plaintiff who is filing this complaint. If the names of all the plaintiffs cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)

-v-

New rue21, LLC

Defendant(s)

(Write the full name of each defendant who is being sued. If the names of all the defendants cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)

Case No. 2:23-cv-143

(to be filled in by the Clerk's Office)

Jury Trial: (check one) ☐ Yes ☐ No

COMPLAINT FOR EMPLOYMENT DISCRIMINATION

I. The Parties to This Complaint

A. The Plaintiff(s)

Provide the information below for each plaintiff named in the complaint. Attach additional pages if needed.

Name	JoAnne Thompson
Street Address	23 Megin Dr
City and County	Hamden, New haven County
State and Zip Code	Connecticut, 06514
Telephone Number	505-358-5071
E-mail Address	joanne.thompson7514@gmail.com

B. The Defendant(s)

Provide the information below for each defendant named in the complaint, whether the defendant is an individual, a government agency, an organization, or a corporation. For an individual defendant, include the person's job or title (*if known*). Attach additional pages if needed.

Defendant No. 1

Name	New rue21, LLC
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Job or Title (<i>if known</i>)	
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Street Address	800 Commonwealth Drive
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City and County	Warrendale, Allegheny County
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State and Zip Code	Pennsylvania, 15086
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Telephone Number	866-533-4783
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E-mail Address (<i>if known</i>)	
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Defendant No. 2

Name	
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Job or Title (<i>if known</i>)	
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Street Address	
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City and County	
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State and Zip Code	
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Telephone Number	
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E-mail Address (<i>if known</i>)	
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Defendant No. 3

Name	
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Job or Title (<i>if known</i>)	
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Street Address	
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City and County	
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State and Zip Code	
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Telephone Number	
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E-mail Address (<i>if known</i>)	
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Defendant No. 4

Name	
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Job or Title (<i>if known</i>)	
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Street Address	
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City and County	
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State and Zip Code	
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Telephone Number _____

E-mail Address *(if known)* _____**C. Place of Employment**

The address at which I sought employment or was employed by the defendant(s) is

Name New rue21, LLC

Street Address 800 Commonwealth Drive

City and County Warrendale, Alleghany County

State and Zip Code Pennsylvania, 15086

Telephone Number 866-533-4783

II. Basis for JurisdictionThis action is brought for discrimination in employment pursuant to *(check all that apply)*:

- ☒ Title VII of the Civil Rights Act of 1964, as codified, 42 U.S.C. §§ 2000e to 2000e-17 (race, color, gender, religion, national origin).

(Note: In order to bring suit in federal district court under Title VII, you must first obtain a Notice of Right to Sue letter from the Equal Employment Opportunity Commission.)

- ☐ Age Discrimination in Employment Act of 1967, as codified, 29 U.S.C. §§ 621 to 634.

(Note: In order to bring suit in federal district court under the Age Discrimination in Employment Act, you must first file a charge with the Equal Employment Opportunity Commission.)

- ☐ Americans with Disabilities Act of 1990, as codified, 42 U.S.C. §§ 12112 to 12117.

(Note: In order to bring suit in federal district court under the Americans with Disabilities Act, you must first obtain a Notice of Right to Sue letter from the Equal Employment Opportunity Commission.)

- ☐ Other federal law *(specify the federal law)*:

- ☐ Relevant state law *(specify, if known)*:

- ☐ Relevant city or county law *(specify, if known)*:

III. Statement of Claim

Write a short and plain statement of the claim. Do not make legal arguments. State as briefly as possible the facts showing that each plaintiff is entitled to the damages or other relief sought. State how each defendant was involved and what each defendant did that caused the plaintiff harm or violated the plaintiff's rights, including the dates and places of that involvement or conduct. If more than one claim is asserted, number each claim and write a short and plain statement of each claim in a separate paragraph. Attach additional pages if needed.

A. The discriminatory conduct of which I complain in this action includes *(check all that apply)*:

- ☐ Failure to hire me.
- ☒ Termination of my employment.
- ☐ Failure to promote me.
- ☐ Failure to accommodate my disability.
- ☐ Unequal terms and conditions of my employment.
- ☐ Retaliation.
- ☒ Other acts *(specify)*: New rue21 LLC refusal to comply with EEOC Guidance for Employers under Title VII: What You Should Know About Covid-19 and the ADA and other EEO Laws at L.3, U.S Equal Employment Opportunity Commission.

(Note: Only those grounds raised in the charge filed with the Equal Employment Opportunity Commission can be considered by the federal district court under the federal employment discrimination statutes.)

B. It is my best recollection that the alleged discriminatory acts occurred on date(s)
September 20, 2021, October 22, 2021 and October 29, 2021

C. I believe that defendant(s) *(check one)*:

- ☐ is/are still committing these acts against me.
- ☒ is/are not still committing these acts against me.

D. Defendant(s) discriminated against me based on my *(check all that apply and explain)*:

- ☐ race _____
- ☐ color _____
- ☐ gender/sex _____
- ☒ religion Denied Religious Exemption Request and refusal to comply with EEOC guidance for religious accommodation
- ☐ national origin _____
- ☐ age *(year of birth)* _____ *(only when asserting a claim of age discrimination.)*

☐ disability or perceived disability (*specify disability*)

E. The facts of my case are as follows. Attach additional pages if needed.

On September 20, 2021 New rue21, LLC held a video conference call with all District Managers, Regional Managers and Executive level partners to inform our group of leaders that we had a deadline of approximately 30 days from September 20, 2021 to upload proof of receiving the Covid-19 vaccination. The PLAINTIFF was instructed to upload the vaccine card into the company driven portal. This call was led by the head of Human Resources.

Within an hour of this call, the PLAINTIFF submitted a Religious Exemption Affidavit for the Covid-19 Vaccine Mandate to the company established Covid email address: COVID@rue21.com.

The PLAINTIFF received an email from Beth Woytek-Ruff; an employee in the benefits department of the New rue21, LLC on 9/21/2021 requesting the PLAINTIFF complete a company drafted Accommodation Request Form by October 4, 2021. The PLAINTIFF submitted the form to the COVID@rue21.com email on September 22, 2021.

New rue21, LLC refused to comply with EEOC Guidance for Employers for unvaccinated employees requesting religious accommodation under Title VII: What You Should Know About Covid-19 and the ADA and other EEO Laws at L.3, U.S Equal Employment Opportunity Commission. New rue21, LLC did not offer or consider reasonable accommodations to the PLAINTIFF, including telework or reassignment as put forward by the EEOC.

On October 22, 2021 the PLAINTIFF received a phone call from an HR employee: Tera Henderson asking follow up questions and received a Denial Letter to the PLAINTIFF'S Request for Religious Accommodation shortly after that call. The PLAINTIFF was informed via the denial letter that termination of employment would occur on October 29, 2021 if the company did not receive proof of vaccination.

The PLAINTIFF was subsequently terminated on October 29, 2021 via video conference call by HR Manager Stephanie Merritt and there was a witness from the Benefits OR Human Resources department on the call, however, the PLAINTIFF cannot recall the employees name at this time.

The PLAINTIFF was compliant in turning in all company property as per the deadlines and request of the company.

The PLAINTIFF submitted an EEOC Charge on December 30, 2021: EEOC Charge # 533-2022-00148 (see attached copy of the charge filed with the EEOC) New rue21, LLC submitted a Position Statement on March 7, 2022.

The PLAINTIFF submitted a REBUTTAL to the Position Statement on April 5, 2022.

The PLAINTIFF submitted evidence requested by EEOC Investigator: Andrew Michener on July 7, 2022.

PLAINTIFF received RIGHT TO SUE letter from the EEOC on November 2, 2022.

(Note: As additional support for the facts of your claim, you may attach to this complaint a copy of your charge filed with the Equal Employment Opportunity Commission, or the charge filed with the relevant state or city human rights division.)

IV. Exhaustion of Federal Administrative Remedies

- A. It is my best recollection that I filed a charge with the Equal Employment Opportunity Commission or my Equal Employment Opportunity counselor regarding the defendant's alleged discriminatory conduct on *(date)*

December 30, 2021

- B. The Equal Employment Opportunity Commission *(check one)*:

☐

has not issued a Notice of Right to Sue letter.

☒

issued a Notice of Right to Sue letter, which I received on *(date)* 11/2/2022.

(Note: Attach a copy of the Notice of Right to Sue letter from the Equal Employment Opportunity Commission to this complaint.)

- C. Only litigants alleging age discrimination must answer this question.

Since filing my charge of age discrimination with the Equal Employment Opportunity Commission regarding the defendant's alleged discriminatory conduct *(check one)*:

☐

60 days or more have elapsed.

☐

less than 60 days have elapsed.

V. Relief

State briefly and precisely what damages or other relief the plaintiff asks the court to order. Do not make legal arguments. Include any basis for claiming that the wrongs alleged are continuing at the present time. Include the amounts of any actual damages claimed for the acts alleged and the basis for these amounts. Include any punitive or exemplary damages claimed, the amounts, and the reasons you claim you are entitled to actual or punitive money damages.

The PLAINTIFF is asking the court to award punitive damages in the amount of \$224,467.27. The reason for this requested amount is payment of salary lost for 1 week in October, November and December of 2021 and for future salary lost for 2022 and 2023 and ALL Personal Time Off accrued.

Below is a breakdown of the amounts the PLAINTIFF is claiming:

October 2021: \$3,307.69 - salary is calculated pre-tax; amount not paid out at time of termination, PLAINTIFF was paid out for one week

November 2021: \$6,615.38 - full months salary pre-tax

December 2021: \$6,615.38 - full months salary pre-tax

Entire year of 2022 salary lost: \$97,850 - salary is calculated pre-tax and including a potential 3% merit increase

Entire year of 2023 salary lost: \$100,785.50 - salary is calculated pre-tax and including a potential 3% merit increase

Payout of ALL Personal Time Off lost for 2021, 2022 and 2023 - equates out to 200 hours with an approximate, estimated pre-tax amount of \$9,293.32.

VI. Certification and Closing

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

A. For Parties Without an Attorney

I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Date of signing: 1/30/2023

Signature of Plaintiff /s/ JoAnne Thompson

Printed Name of Plaintiff JoAnne Thompson

B. For Attorneys

Date of signing: _____

Signature of Attorney _____

Printed Name of Attorney _____

Bar Number _____

Name of Law Firm _____

Street Address _____

State and Zip Code _____

Telephone Number _____

E-mail Address _____